

PATENT APPLN. NO. 10/757,567
RESPONSE UNDER 37 C.F.R. §1.111

**PATENT
NON-FINAL**

IN THE DRAWINGS:

Please add the new sheet of drawings (with new Figs. 5 and 6)
attached hereto to the application.

REMARKS

In the Action the Office requires confirmation of the telephone election made without traverse of species (I), Figs. 1 and 2 (an aspirator with atmospheric pressure release valve). Applicants confirm the election of the species of Figs. 1 and 2, species (I), without traverse.

The drawings are objected to in the Action under 37 CFR 1.83(a). The Office requires a drawing showing an aspirator having both a pressure release valve and a clogging detection means as claimed in claims 9 and 23.

A new sheet of drawings is attached to this response. The new sheet of drawings includes new Figs. 5 and 6 which show an aspirator according to the present invention having both a pressure release valve and a clogging detection means. Paragraph [0040] on page 10 of the specification has been amended to include a description of Figs. 5 and 6. Additionally, paragraph [0083] on page 27 of the specification has been amended to refer to new Figs. 5 and 6 as showing the embodiment described in the paragraph.

The new drawings and description do not add prohibited new matter to the application.

Removal of the objection to the drawings is believed to be in order.

In the Action the Office also objects to the description in the specification disclosure and suggests the following amendments: (1) insertion of a comma after "a coupling tube 36" on page 12, line 2, and (2) deletion of the language "for a short period of time" on page 13, line 23. The specification has been amended to make these minor changes and to correct other informalities noted therein.

Claims 1, 5, 9, 11 and 23 are rejected in the Action under 35 U.S.C. 102(b) as being anticipated by Ross (U.S. Patent No. 3,885,567) (hereinafter: "Ross"). Claims 2-4, 6-8, and 21 are rejected in the Action under 35 U.S.C. 103(a) as being obvious over Ross.

Initially, it is noted that the Office has taken the position in the 35 U.S.C. § 102 rejection that claims 5 and 11 provide only functional language. Claim 11 has been canceled. However, the limitation recited in claim 5 that the atmospheric pressure obtaining release valve opens simultaneously with stopping of the electric pump and closes simultaneously with starting of the electric pump is believed to operate to limit the structure of the atmospheric pressure obtaining release valve to one which has a structure which enables it to open simultaneously with stopping of

the electric pump and to close simultaneously with starting of the electric pump.

It is also noted that claims 1 and 23 have been amended to include the limitations of claim 5 and that claims 5-8 have been canceled. In claims 1 and 23 as amended the limitation of the atmospheric pressure obtaining release valve is recited in structural terms as "being adapted to open simultaneously with stopping of the electric pump and to close simultaneously with starting of the electric pump."

Referring to Ross, both the present invention and the invention described by Ross relate to a medical aspirator. However, the present invention relates in particular to a medical aspirator which reduces a high load caused by a negative pressure at the time of restart whereas the invention of Ross relates to a medical aspirator for improving the performance of evacuating liquid from intestinal cavities. The aspirator of the present invention, as recited in amended claims 1 and 23, has a valve which opens simultaneously with stopping of the electric pump and closes simultaneously with starting of the electric pump. However, the aspirator of Ross has valves which provide a bleed-off to prevent the pressure from exceeding a selectable limit (col. 4, lines 44-46).

The aspirator of Ross, therefore, does not include each of the limitations of claims 1 and 23 and is insufficient to support a case of anticipation of these claims under 35 U.S.C. § 102.

Removal of the 35 U.S.C. § 102 rejection is in order and is respectfully requested.

Regarding the rejection of claims 2-4, 6-8, and 21 under 35 U.S.C. 103(a) as being obvious over Ross, claims 6-8, as noted above, have been cancelled. Claims 2-4 and 21 depend, directly or indirectly, on claim 1. Since claim 1 has been shown to be patentable over Ross, claims 2-4 and 21 are prima facie patentable.

Removal of the 35 U.S.C. § 103(a) rejection is in order and is respectfully requested.

The foregoing is believed to be a complete and proper response to the Office Action dated September 29, 2005, and is believed to place this application in condition for allowance. If, however, minor issues remain that can be resolved by means of a telephone interview, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number indicated below.

In the event that this paper is not considered to be timely filed, applicants hereby petition for an appropriate extension of time. The fee for any such extension may be charged to our Deposit Account No. 111833.

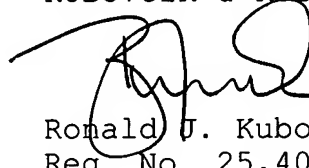
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In the event any additional fees are required, please also
charge our Deposit Account No. 111833.

Respectfully submitted,

KUBOVCIK & KUBOVCIK



Ronald J. Kubovcik
Reg. No. 25,401

Atty. Case No. NPR-136
The Farragut Building
Suite 710
900 17th Street, N.W.
Washington, D.C. 20006
Tel: (202) 887-9023
Fax: (202) 887-9093
RJK/jbf